

## Financial Markets Conduct (Pegasus Health Membership Limited and Pegasus Health Nurse Membership Limited) Exemption Notice 2016

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

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### Notice

#### 1 Title

This notice is the Financial Markets Conduct (Pegasus Health Membership Limited and Pegasus Health Nurse Membership Limited) Exemption Notice 2016.

#### 2 Commencement

This notice comes into force on 1 December 2016.

#### 3 Revocation

This notice is revoked on the close of 30 November 2021.

#### 4 Interpretation

(1) In this notice, unless the context otherwise requires:

**Act** means the Financial Markets Conduct Act 2013

**Company** means either Pegasus Health Membership Limited or Pegasus Health Nurse Membership Limited

**Member** means a qualified and registered nurse, nurse practitioner, enrolled nurse or qualified and registered general medical practitioner who has an affiliation with the health industry in Canterbury

**Nominee** means a person or entity appointed by the Company from time to time to hold shares on trust for a Member

**Regulations** mean the Financial Markets Conduct Regulations 2014.

- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

## **5 Exemption from Part 3 of the Act for new offers of shares**

A Company is exempted from Part 3 of the Act in respect of any offer of shares to a Member, if the amount payable by the Member on acceptance of the offer, plus any amounts previously paid by the Member for shares of the Company (that are held by the Member at the time of the offer) does not exceed \$5,000.

## **6 Conditions for exemptions in clause 5**

The exemption in clause 5 is subject to the conditions that:—

- (a) a Company must not accept an application or issue or transfer the shares to a Member or the Nominee unless:—
- (i) before the application was made, a disclosure document for the offer was given to the Member; and
  - (ii) the disclosure document contained all the information that must be contained in a key information summary under Schedule 3 of the Regulations in relation to an offer of shares (unless irrelevant to the offer); and
- (b) a Company must ensure that the warning statement set out in Part 1 of the Schedule to this notice is included, in a prominent position, at the front of every document provided to a Member that contains the key terms of the offer (including the disclosure document referred to in paragraph 6(1)(a) above).

## **7 Exemption from Part 4 of the Act**

A Company is exempted from section 218 of the Act and Regulation 108 in respect of any shares issued by it under the Act, if the total amount paid by each Member for shares of the Company (that are held by the Member) does not exceed \$5,000.

## **8 Exemption from Part 7 of the Act**

Where a Company is an FMC reporting entity only because it is an issuer of shares, the Company is exempted from Part 7 of the Act, if the total amount paid by each Member for shares of the Company (that are held by the Member) does not exceed \$5,000.

## **9 Exemptions for shares allotted under the Securities Act**

Each Company is exempted from Subpart 4 of Part 3, section 218, clause 30 of Schedule 4 of the Act, and Regulation 108 in respect of shares allotted under the Securities Act 1978, if the total amount paid by each Member for shares of the Company (that are held by the Member) does not exceed \$5000.

## 10 Condition for exemptions in clause 9

The exemptions in clause 9 are subject to the condition that the Company must, before or within 3 months after the effective date, send to each holder of shares (at the holder's last known address) a written notice containing, in a prominent position, the warning statement set out in Part 2 of the Schedule to this notice.

### Schedule

#### Warning statements

##### Part 1

"Under New Zealand law, most companies making an offer of shares have to give investors information about the shares and the company before they invest. They also have to provide shareholders with on-going financial information about the shares and the company. In most cases, this information must meet legal requirements for financial reporting and the auditing of financial statements. This is to help investors make informed decisions.

In this case, these rules don't apply because there is an exemption where the total amount to be invested by individuals in *[insert Company name]* is \$5,000 or less (including any shares already held). This exemption recognises that, for the shareholders, *[insert Company name]* shares are more like a membership than an investment.

As a result, you may not be given all the financial information usually required."


##### Part 2

"Under New Zealand law, companies that have issued shares usually have to make available to investors on-going financial information about the shares and the company. This is to help investors make informed decisions. In most cases, this information must meet legal requirements for financial reporting and the auditing of financial statements.

These rules do not apply in relation to shares previously issued by *[insert Company name]* because there is an exemption where the total amount invested by individuals in shares of *[insert Company name]* is \$5,000 or less. This exemption recognises that, for these shareholders, shares in *[insert Company name]* are more like a membership than an investment.

As a result, you may not be given all the financial information usually required."

Dated at Auckland this 25<sup>th</sup> day of November 2016.

  
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Nick Kynoch  
General Counsel  
Financial Markets Authority

### Statement of Reasons

This notice, which comes into force on 1 December 2016 and is revoked on 30 November 2021, exempts Pegasus Health Membership Limited and Pegasus Health Nurse Membership Limited (the **Pegasus Companies**), from—



- certain disclosure, financial reporting, and auditing requirements in Parts 3, 4, and 7 of the Financial Markets Conduct Act 2013 (the **Act**) in relation to new offers of shares; and
- certain disclosure, financial reporting, and auditing requirements in Parts 3, 4, and 7 of the Act in relation to shares that were allotted under the Securities Act 1978 and in reliance upon the Securities Act (Pegasus Health Membership Limited and Pegasus Health Nurse Membership Limited) Exemption Notice 2013.

The Pegasus Companies are non-trading membership companies whose primary purpose is to provide a collective platform for general practitioners and nurses in the Canterbury region. The Companies give members a united voice to be heard and to be involved in the operation of the health industry in a way that they otherwise would not have the opportunity to do so.

Shareholding in the Pegasus Companies is limited to general practitioners and nurses who have an affiliation with the health industry in Canterbury. The issue of shares in the Pegasus Companies is for the purpose of facilitating membership as opposed to raising capital for the Companies. Shares are issued for a nominal price which is not connected with the assets or profitability of the Pegasus Companies.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the Act, considers it appropriate to grant the exemptions because:—

- the Pegasus Companies operate as non-trading membership companies. Shares in the Pegasus Companies are acquired for reasons other than investment and shareholders receive benefits from their shareholding which are not in the nature of equity returns and which are irrespective of any profits made by the Company. Shareholders are participants in the primary healthcare industry in the Canterbury region who are familiar with or who have significant knowledge or access to information about the Pegasus Companies:
- the exemption enables the Pegasus Companies to provide information to investors in a cost-effective way, that is appropriate to the nature of their business and the type and level of investment involved. Appropriate financial reporting and auditing requirements will also continue to apply as the Pegasus Companies remain subject to the financial reporting and auditing requirements of the Companies Act 1993:
- the conditions to the exemption limit the total investment per shareholder to \$5,000 or less. As such the financial risk of investment is low. The limited benefit shareholders would receive if the Pegasus Companies were required to comply with the full disclosure, financial reporting, and auditing requirements of the Act is outweighed by the compliance costs of doing so. For these reasons, the exemption is desirable in order to promote the purposes of the Act, specifically avoiding unnecessary compliance costs while continuing to ensure the provision of timely, accurate, and understandable financial information to assist decision making by investors:
- in the circumstances that the exemption is limited to a small class of investors (healthcare professionals in the Canterbury region who wish to be a member of the Pegasus group) and where the total per shareholder capital investment is limited to \$5,000 or less, the FMA is satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to it.